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21 S. E. 515; *State* v. *Angel,* 42 Kan. 216, 21 Pac. 1075; *In re Marceau,* 15 N. Y. Cr. R. 92, 32 Misc. 217, 65 N. Y. Supp. 717. But where another has been given the right to custody by court decree, the parental relation is no defense. *State* v. *Farrar,* 41 N. H. 53; *In re Peck,* 66 Kan. 693, 72 Pac. 265. There seems to be but one case in the books parallel to the principal case—*Comm.* v. *Nickerson,* 5 Allen 518. The decision is the same, but the court assumed in that case that the mother had *no* right to take the child, instead of holding that point immaterial, as here. In the principal case the court based its holding on the argument that one object of the statute is to protect parents from the mental anguish which follows the enticing away of a child by a stranger, an element not likely to be present when the other parent is the "kidnapper." Although the kidnapping of children is certainly not to be encouraged, nevertheless, the parent's admitted right to take the child in some cases would seem to be an empty one if there is no correlative right to procure assistance.

QUO WARRANTO—WHEN LIES—JURISDICTION OF MUNICIPALITY.—In a proceeding in the nature of quo warranto to exclude the village of College View and its trustees from taxing or otherwise exercising authority over the relator's real estate. *Held,* a non-resident owner of agricultural lands illegally included within the boundaries of a village may maintain proceedings by quo warranto for the purpose of preventing a municipality from exercising jurisdiction over his real estate. *State ex rel. Bute* v. *Village of College View* (1911), — Neb. —, 129 N. W. 296.

The authorities are in direct conflict as to whether or not quo warranto will lie to test the legality of the exercise of corporate powers outside of municipal boundaries. Representative decisions holding with the principal case are: *People ex rel. Attorney General* v. *Oakland,* 92 Cal. 611, 28 Pac. 807; *State* v. *Crow Wing County,* 66 Minn. 519, 68 N. W. 767, 69 N. W. 925, 73 N. W. 631; *People* v. *City of Peoria,* 166 Ill. 517; *Frey* v. *Michie,* 68 Mich. 323; *State* v. *Fleming,* 147 Mo. 1; *East Dallas* v. *State,* 73 Tex. 370; *State* v. *McLean County,* 11 N. D. 356, 92 N. W. 385. This undoubtedly expresses the weight of authority and is in accord with the better reasoning. ROBERTS, EXTRAORDINARY LEGAL REMEDIES, p. 326; 8 AM. & ENG. ANN. CAS. 323. The opposite view and the reason therefor is well expressed by Mr. Justice WALKER in *People* v. *Whitcomb,* 55 Ill. 172, who says, "The writ of quo warranto is generally employed to try the right a person claims to an office, not to test the legality of his acts. If an officer threatens to exercise the powers of his office in a territory or jurisdiction within which he is not authorized to act, people feeling themselves aggrieved may usually restrain the act by injunction. This case, however, seems to be without appreciable support in Illinois as there is a long line of cases in that state opposed to the doctrine for which it stands. *People ex rel. Warren* v. *York,* — Ill. —, 93 N. E. 400, and it has been cited with approval, upon the point involved, in but one instance. *East St. Louis* v. *New Brighton,* 34 Ill. App. 494. However, the doctrine, that injunction and not quo warranto is the proper remedy, receives the undivided support of the Indiana Courts. *Peru* v. *Bearss,*

55 Ind. 576; *Stultz* v. *State,* 65 Ind. 492. See also *State* v. *Lyons,* 31 Ia. 432; HIGH, EXTRAORDINARY LEGAL REMEDIES, § 618. The reason for the above conflict would seem to be that the courts, in some instances, have divided remedies into three classes: (1) Legal; (2) Equitable; (3) Extraordinary Legal. Instead of making the third class a part of and subordinate to the first, they have placed it in a coordinate position with the two other great classes into which all remedies are divided, viz.: legal and equitable. In other words they have modified the fundamental rule, that where there is an adequate remedy at law, courts of equity will not grant relief, and in its place have in effect laid down the doctrine that where there is a remedy in equity, an extraordinary legal remedy will not be granted. That this is an anomaly in our system of jurisprudence is self-evident. ROBERTS, EXTRAORDINARY LEGAL REMEDIES, page 326.

RAILROADS—SEPARATE ACCOMMODATIONS FOR WHITE AND COLORED RACES—DUTY TO FURNISH.—Ky. St. § 795 (Russell's St.) provides that a railroad company operating cars in the State shall furnish separate coaches for the transportation of white and colored passengers, but that each compartment of a coach divided by a substantial wooden partition with a door therein shall be deemed a separate coach within the meaning of the act. The Illinois Central Railroad was indicted under this statute for neglecting to provide separate cars and compartments on cars operated by it for the transportation of white and colored passengers. *Held,* a Pullman sleeping car controlled wholly by the servants of the Pullman Company, when it does not appear that the carrier was paid anything by the Pullman Company for handling the sleeper, and that the only benefit it derived therefor was the inducement for increased travel, was not operated by the carrier within the meaning of the above statute, and the carrier not being required to furnish sleeping cars under the act, was not liable thereunder for hauling a sleeper which contained no separate compartments for white and colored passengers, or for failing to compel a colored passenger therein to enter the separate compartment of the day coach set aside for his race. *Commonwealth* v. *Illinois Cent. R. Co.* (1911), — Ky. —, 133 S. W. 1158.

The constitutionality of the statute under consideration is beyond question. *C. & O. Ry. Co.* v. *Kentucky,* 179 U. S. 388, 21 Sup. Ct. 101, 45 L. Ed. 244. The principal case is of importance in that it presents an interesting development of what is popularly termed "Jim Crow" legislation. It would seem to be a case of first instance touching the duty of railroad companies to furnish separate accommodation for the transportation of the white and colored races in sleeping cars. The court interprets the word "coaches" as being synonymous with the word "day coaches," and states that the railroad company was under no duty to furnish sleeping cars for its train, the reason for this construction of the statute being that it was a highly penal one, and therefore should be strictly construed. The tendency of the courts as revealed by this case would seem to be: (1) Sleeping cars not owned by railroad companies are excluded from the operation of the ordinary statute requiring separate accommodation for the transportation of the white and